

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FOREVER 21, INC.

Plaintiff(s),

v.

GUCCI AMERICA, INC., et al.

Defendant(s).

Case No.

2:17-cv-04706-FMO-E

**ORDER Re: SUMMARY JUDGMENT  
MOTIONS**

A deadline for dispositive motions has been set in the above-captioned case. Any motion(s) for summary judgment **shall** comply with all Federal Rules of Civil Procedure and Local Rules, as well as this Order. Please be advised that this Order contains requirements more specific than the Local Rules and Federal Rules of Civil Procedure.

1. Joint Brief: The parties shall work cooperatively to create a single, fully integrated joint brief covering all parties' summary judgment motions, in which each issue (or sub-issue) raised by a party is immediately followed by the opposing party's/parties' response. The joint brief shall set out each issue (or sub-issue), including legal argument and citation to evidence and the joint appendix of undisputed and disputed facts (i.e., not simply to the joint appendix of undisputed and disputed facts), followed seriatim by the response with respect to that issue (or sub-issue), including legal argument and citation to evidence.

2. Citation to Evidence: The parties shall cite to relevant evidence to support

1 factual assertions throughout the joint brief. All citations to evidence shall be  
2 directly to the exhibit and page number(s) of the evidentiary appendix, (see infra  
3 at ¶ 5), or page and line number(s) of a deposition, as well as the joint appendix  
4 of undisputed and disputed facts. Parenthetical explanations are encouraged.  
5 Failure to cite to evidence in support of a factual assertion may be deemed a  
6 party's admission that it lacks evidence of that fact. Evidence not cited by a  
7 party in the joint brief may not be considered.

8 3. Unnecessary Sections: The parties need not include a "procedural history"  
9 section, since the court will be familiar with the procedural history. The court is  
10 also familiar with the general standard for summary judgment, so that need not be  
11 argued. However, if a party believes a specialized standard is applicable, the party  
12 may brief such a standard. If preliminary issues - such as burden of proof, standard  
13 of review, or choice of law - are in dispute, the parties shall brief such issues  
14 in accordance with ¶ 1, supra.

15 4. Page Limitation: Each separately-represented party shall be limited to  
16 twenty-five (25) pages, exclusive of tables of contents and authorities. Repetition  
17 shall be avoided and, as always, brevity is preferred. Leave for additional space  
18 will be given only in extraordinary cases. The excessive use of footnotes in an  
19 attempt to avoid the page limitation shall not be tolerated. All substantive material,  
20 other than brief argument on tangential issues, shall be in the body of the brief.

21 5. Evidentiary Appendix: The joint brief shall be accompanied by one  
22 separate, tabbed appendix<sup>1</sup> of declarations and written evidence (including  
23 documents, photographs, deposition excerpts, etc.). See Local Rule 7-6.  
24 Declarations shall set out facts that would be admissible in evidence, and shall  
25 not contain argument, see Local Rule 7-7, and physical exhibits shall be lodged  
26 separately. The evidentiary appendix shall include a table of contents.

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28 <sup>1</sup> A large appendix may be divided into multiple volumes.

1 If the evidentiary appendix in support of or in opposition to a motion exceeds  
 2 50 pages, the evidence must be separately bound and tabbed and include an index.  
 3 If such evidence exceeds **300 pages**, the documents shall be placed in **three-ring**  
 4 **binders**, with an index and with each item of evidence separated by a divider with  
 5 a tab on the right side. In addition, counsel shall provide an electronic copy (i.e., cd,  
 6 dvd, or flash drive) of the documents in a single, OCR-scanned, .pdf file with each  
 7 item of evidence separated by labeled bookmarks. Counsel shall ensure that all  
 8 documents are legible.

9 6. Evidentiary Objections: All necessary evidentiary objections shall be  
 10 made in the relevant section(s) of the joint brief.

11 7. Joint Appendix of Undisputed and Disputed Facts: The joint brief shall  
 12 also be accompanied by a joint appendix of undisputed and disputed facts. The  
 13 14-point font requirement of Local Rule 11-3.1.1 is waived for the purposes of  
 14 this factual appendix only. To avoid a Notice of Document Discrepancy, the  
 15 appendix must be entitled "Statement of Uncontroverted Facts." See Local Rule  
 16 56-1. This appendix shall consist of a five column table:

17 a. The first column shall contain the number of the fact alleged by a  
 18 party to be undisputed. All asserted undisputed facts shall be sequentially  
 19 numbered, but shall be divided into sections clearly denoting which party is  
 20 asserting the undisputed fact (e.g., D1, D2, . . . , P51, P52, . . . ). Facts agreed  
 21 to be undisputed need not be reasserted in later sections.

22 b. The second column shall contain a plain statement of the fact. The  
 23 fact shall not be compound. If, for instance, the required response is that the  
 24 fact is disputed in part, the fact is compound. Further, neither legal arguments  
 25 nor conclusions constitute facts.

26 c. The third column shall contain citation to admissible evidence the  
 27 party believes supports that fact. If multiple pieces of evidence are cited,  
 28 parenthetical explanations of the nature and relevance of each piece of

1 evidence shall be included.

2 d. The fourth column shall contain the opposing party's/parties'  
3 response to the asserted undisputed fact. The following are the only  
4 appropriate responses: (1) "Undisputed"; (2) "Disputed," along with a brief  
5 explanation of the dispute (e.g., "unsupported by admissible evidence," or  
6 "conflicting evidence presented"). Legal argument is not an appropriate  
7 response. See Local Rule 11-7.

8 e. The fifth column shall contain citation to admissible evidence  
9 supporting the party's assertion of the disputed fact. If multiple pieces of  
10 evidence are cited, parenthetical explanations of the nature and relevance of  
11 each piece of evidence shall be included. If the party does not dispute the  
12 fact, or simply disputes the sufficiency of the asserting party's evidence, no  
13 citation is necessary.

14 8. Failure to Properly Dispute a Fact: A party's failure to properly dispute  
15 any fact asserted to be undisputed by the opposing side shall be deemed established  
16 for the purposes of resolving the motion(s). See Local Rule 56-3.

17 9. Schedule for Preparation and Filing of Joint Brief: The briefing schedule  
18 for the joint brief shall be as follows:

19 A. **Meet and Confer**: In order for a motion for summary judgment to  
20 be filed by the deadline for dispositive motions, the meet and confer must take  
21 place no later than thirty-five (35) days before the deadline for dispositive  
22 motions set forth in the Court's Case Management and Scheduling Order. It  
23 shall be the responsibility of counsel for the moving party to arrange for this  
24 conference. Counsel for the parties shall meet and confer in person at an  
25 agreed-upon location within the Central District of California to narrow and  
26 crystallize the issues to be argued in the summary judgment motion. The  
27 parties shall discuss each issue to be raised in the motion, as well as the law  
28 and evidence relevant to that issue, so that the parties' briefing reflects that

1 they are fully cognizant of the other side's position(s). If the briefing reveals  
2 that the parties are not on the same page with respect to the issues and  
3 position(s) presented, the motion shall be stricken.

4 B. No later than seven (7) days after the meet and confer, the moving  
5 party shall personally deliver or e-mail to the opposing party an electronic  
6 copy of the moving party's portion of the joint brief, together with the moving  
7 party's portion of the evidentiary appendix and joint appendix of undisputed  
8 and disputed facts.

9 C. No later than fourteen (14) days after receiving the moving party's  
10 papers, the opposing party shall personally deliver or e-mail to the moving  
11 party an electronic copy of the integrated motion, which shall include the  
12 opposing party's portion of the joint brief, together with the opposing party's  
13 portion of the evidentiary appendix and joint appendix of undisputed and  
14 disputed facts.

15 D. No later than two days after receiving the integrated version of the  
16 motion and related papers, the moving party shall finalize it for filing. The  
17 moving party may not make any further revisions to the joint brief other than  
18 finalizing the document for filing. Once finalized, the joint brief shall be  
19 provided to the opposing party's counsel who shall sign it and return it to the  
20 moving party's counsel no later than the end of the next business day. The  
21 moving party's counsel shall sign and electronically file the joint brief, the  
22 evidentiary appendix, and joint appendix of undisputed and disputed facts no  
23 later than one business day after receiving the opposing party's signed copy.  
24 The joint brief shall be accompanied by a Notice of Motion and Motion for  
25 Summary Judgment, and shall be calendared pursuant to the Local Rules.

26 E. **Supplemental Memorandum:** After the joint brief is filed, each  
27 party may file a supplemental memorandum of points and authorities no  
28 later than fourteen (14) days prior to the hearing date. The supplemental

1 memorandum shall not exceed ten (10) pages in length. No other separate  
2 memorandum of points and authorities shall be filed by either party in  
3 connection with the summary judgment motion.

4 10. Failure to Comply with this Order: If it appears from the joint brief that  
5 the parties have not discharged their meet and confer obligations in good faith, that  
6 the parties have not worked to fully integrate the document, or that the parties have  
7 otherwise failed to fully comply with this Order, the motion shall be stricken, and  
8 the parties shall be required to repeat the process. If it appears that one (or more)  
9 of the parties is primarily responsible for the failure to properly file an adequate  
10 joint brief, the primarily responsible party or parties shall be subject to appropriate  
11 sanctions.

12 **IT IS SO ORDERED.**

13 DATED: September 18, 2017

14 /s/  
15 Fernando M. Olguin  
16 United States District Judge  
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